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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,808	07/22/2003	David Alan Bailey	ROC920030220US1	6643
46296	7590	02/06/2006	EXAMINER	
MARTIN & ASSOCIATES, LLC			DOAN, DUC T	
P.O. BOX 548			ART UNIT	
CARTHAGE, MO 64836-0548			PAPER NUMBER	

2188

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/624,808

Applicant(s)

BAILEY ET AL.

Examiner

Duc T. Doan

Art Unit

2188

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11, 14-16 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14-16 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***DETAIL ACTION***

***Status of Claims***

***Response to Amendment***

Claims 1-21 were pending in this application. In response to the last Office Action, Claims 12-13,17-18,20-21 were canceled. Claims 1,4-6,9-11,16,19 were amended. As a result, claims 1-11,14-16,19 are remain pending in this application.

Claims 1-11,14-16,19 are rejected.

All rejections and objections not explicitly repeated below are withdrawn.

Applicant's arguments filed 12/02/05 have been fully considered but they are not persuasive. Therefore, the rejections from the previous office action are respectfully maintained, with changes as needed to address the amendments.

***Claim Rejection 35 USC 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11,14-15,16,19 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 11,16,19 are directed to a recordable computer readable signal bearing media. In view of applicants' disclosure, specification page 9 lines 1 to 8, the recordable computer readable

signal bearing media includes non-storage transmission type media. Therefore the claim is not limited to statutory subject matter and is therefore non-statutory.

All dependent claims are rejected as having the same deficiencies as the claims they depend from.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11,14-16,19 rejected under 35 U.S.C. 103(a) as being unpatentable over Tarui et al (US Pub 2002/0112102) and in view of (Bealkowski et al (US 6330656).

As for claim 1, Tarui describes an apparatus comprising: at least one processor (Fig 1: #10, #11); a memory coupled to the at least one processor (Fig 1: #30); a plurality of logical partitions defined on the apparatus (Fig 2c: #331,332 partitions 0,1); an I/O reconfiguration mechanism that reconfigures identified I/O (Tarui's page 3, paragraph 53); and a logical partition suspend/resume mechanism that suspends at least one of the plurality of logical partitions before the I/O reconfiguration mechanism reconfigures the identified I/O by inhibiting dispatch of tasks to the at least one logic partition and waiting until all pending tasks in the at least one logical

partition are complete, and that resumes all suspended logical partitions after the I/O reconfiguration mechanism reconfigures the identified I/O by enable dispatching of tasks to the at least one logical partition (Tarui's page 5, paragraphs 83,84 describes the partition control program works with the operating system OS to stop using the I/O adapter, therefore inherently, the partitions that correspond to the particular I/O adapter will be suspended and once the I/O adapters are reconfigured; Tarui's paragraph 82, these partitions will be allow to be resumed; Tarui's paragraph 25). Tarui does not describe the pending tasks aspect of the claim. However, Bealkowski's column 9 lines 62 to column 10 line 5 describes a method to disassociating a partition to an i/o slot includes quiescent the device, completing all pending works and preventing any new work from occurring to the device. It would have been obvious to one of ordinary skill in the art at the time of invention to include the quiescent device method as suggested by Bealkowski in Tarui's system to allow completing pending data thereby the partition and the i/o device are disassociated in a manner that data integrity is protected. (Bealkowski's column 10, lines 12-15).

As for claims 2-3, the claims recite wherein the logical partition suspend/resume mechanism suspends all of the plurality of logical partitions (claim 2); wherein the logical partition suspend/resume mechanism suspends only the logical partitions that own the identified I/O (claim 3). Tarui describes the access partition discriminator for allocation i/o adapters to the partitions (Tarui's page 5, paragraph 81). Tarui further describes a method of stop using i/o adapters in any number of partitions, reconfiguring i/o adapters in the partitions via access partition discriminator, and allowing the OS to start using the i/o adapters (Tarui's page 5, paragraph 84).

As for claim 4, the claim rejected based on the same rationale as in the rejection of claim 1. Tarui further describes the partition manager performing the steps of: (1) detecting when identified I/O requires reconfiguration (Tarui's page 5, paragraph 83 describes a dynamic hot-plugging of i/o adapters);

Claims 5,6,10 rejected based on the same rationale as in the rejection of claims 1-3.

Claim 7 rejected based on the same rationale as in the rejection of claim 2.

Claims 8,14 rejected based on the same rationale as in the rejection of claim 3.

Claims 9,15 rejected based on the same rationale as in the rejection of claim 4.

### ***Response to Arguments***

Applicant's arguments in response to the last office action have been fully considered but they are not persuasive. Examiner respectfully traverses Applicant's arguments for the following reasons:

As to the remarks on pages 10-11 concerning the claim 1. Applicant argues that:

A) Tarui does not teach or suggest suspending or resume logical partition. Examiner respectfully disagrees. Tarui's page 5, paragraphs 83,84 describes the partition control program works with the operating system OS to stop using the I/O adapter, therefore inherently, the partitions that correspond to the particular I/O adapter will be suspended and once the I/O adapters are reconfigured; Tarui's paragraph 82, these partitions will be allow to be resumed; Tarui's paragraph 25).

B) Applicant has amended the claim, to further describe the performance of the suspend and resume operations including the step of completing all pending tasks. Tarui does not describe the

pending tasks aspect of the claim. However, Bealkowski's column 9 lines 62 to column 10 line 5 describes a method to disassociating a partition to an i/o slot includes quiescent the device, completing all pending works and preventing any new work from occurring to the device. It would have been obvious to one of ordinary skill in the art at the time of invention to include the quiescent device method as suggested by Bealkowski in Tarui's system to allow completing pending data thereby the partition and the i/o device are disassociated in a manner that data integrity is protected. (Bealkowski's column 10, lines 12-15).

Claims 4-6, 9-10,11,16,19 have the similar limitations as in claim 1, therefore they are rejected based on the same rationale as in above paragraphs.

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Applicant's amendment filed 8/18/03 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

When responding to the office action, Applicant is advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist examiner to locate the appropriate paragraphs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Doan whose telephone number is 571-272-4171. The examiner can normally be reached on M-F 8:00 AM 05:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on 571-272-4210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin L. Ellis  
Primary Examiner

*Kevin L. Ellis*